

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

866



SUBMITTAL DATE:
May 5, 2015

FROM: Executive Office

SUBJECT: AB 851 – Establish Procedures for Disincorporation of Cities; All Districts; [\$0]

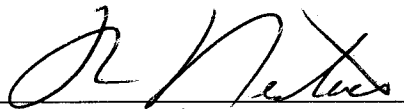
RECOMMENDED MOTION: Approve letter of support for AB 851

BACKGROUND:

Summary

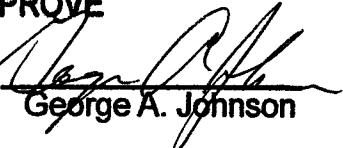
Assembly Bill 851 would update sections of the Cortese-Knox-Hertzberg Local Government Reorganization Act to provide an orderly process for the disincorporation of cities, by essentially prescribing the reverse of the current incorporation process. It would not add any new incentives for disincorporation, but would merely provide a structured process for cities.

Departmental Concurrence


 Brian Nestande
 Deputy County Executive Officer

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$	\$	\$	\$	Consent <input type="checkbox"/> Policy <input type="checkbox"/>
NET COUNTY COST	\$	\$	\$	\$	

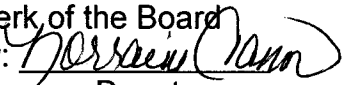
SOURCE OF FUNDS: _____ Budget Adjustment: _____
 For Fiscal Year: _____

C.E.O. RECOMMENDATION: **APPROVE**
 BY: 
 George A. Johnson
 County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Tavaglione, seconded by Supervisor Benoit and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Tavaglione, Washington, Benoit and Ashley
 Nays: None
 Absent: None
 Date: May 12, 2015
 xc: E.O.

Kecia Harper-Ihem
 Clerk of the Board
 By: 
 Deputy

- A-30
- Positions Added
- 4/5 Vote
- Change Order

Prev. Agn. Ref.: _____ District: All Agenda Number: _____

3-48

DATE: May 5, 2015

PAGE: 2 of 2

BACKGROUND:

Summary (continued)

County staff, working with county counsel, submitted suggested amendments to the Author and to CSAC in March. Amendments were accepted by the Author. CSAC along with Orange County and San Bernardino are now in support of the bill. County counsel still has suggested technical changes and we will ask our lobbyist to continue working with the Author.

AB 851 would, in the case of a disincorporation or reorganization that includes a disincorporation, require the plan for services to include specific provisions, including, among others, an enumeration and description of the services currently provided by the city proposed for disincorporation.

The California Association of LAFCOs (Local Agency Formation Commissions) developed this legislative proposal to harmonize the disincorporation process under existing law with constitution and statutory requirements. The assumption by the bill authors was that counties would appreciate a permissive approach that didn't require them to update the general plan and zoning codes in too short a timeframe for a disincorporated city.

AB 851 provides an orderly procedure for disincorporations and brings the sections of the Act into full compliance with the mandates of Propositions 13 and 218. Specific changes proposed by the legislation include:

- Clarifying that debts and unfunded liabilities that will continue after disincorporation must be the responsibility of the residents of the former city.
- Establishing the parameters and requirements for the submission of the Plan for Service for a disincorporation proposal, to ensure that municipal services continue for residents of the disincorporated city.
- Establishing the responsibilities of LAFCOs in preparing a Comprehensive Fiscal Analysis for disincorporations; the determination of the transfer of property tax revenues previously received by the proposed disincorporating City; and the determination of the transfer of debt to a successor agency or agencies.
- Retaining the existing authority of LAFCOs to impose terms and conditions on a proposed disincorporation as well as the election requirements necessary for approval of disincorporation.

Impact on Residents and Businesses

SUPPLEMENTAL:

Additional Fiscal Information

Contract History and Price Reasonableness

AMENDED IN ASSEMBLY APRIL 13, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 851

Introduced by Assembly Member Mayes

February 26, 2015

An act to amend Sections 56658, 56885.5, and 57405 of, to add Sections 56653.1, 56770, 56804, 56813, 56814, ~~56815~~, 56816, and 57426 to, and to repeal Sections 57401, 57402, 57404, 57409, 57410, 57416, ~~57417~~, 57423, and 57424 of, the Government Code, and to amend Section 99 of the Revenue and Taxation Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 851, as amended, Mayes. Local government: organization: disincorporations.

(1) Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, provides the authority and procedures for the initiation, conduct, and completion of changes of organization and reorganization of cities and districts. The act requires a local agency or school district that initiates proceedings for a change of local government organization or reorganization, by submitting a resolution of application to a local agency formation commission, to also submit a plan for providing services within the affected territory, as specified.

This bill would, in the case of a disincorporation or reorganization that includes a disincorporation, require the plan for services to include specific provisions, including, among others, an enumeration and description of the services currently provided by the city proposed for ~~disincorporation and an outline of current retirement obligations, as specified.~~ *disincorporation*.

(2) The act requires a petitioner or legislative body desiring to initiate proceedings to submit an application to the executive officer of the local agency formation commission, and requires the local agency formation commission, with regard to an application that includes an incorporation, to immediately notify all affected local agencies and any applicable state agency, as specified.

This bill would extend that requirement to an application that includes a disincorporation.

(3) Existing law prohibits the commission from approving or conditionally approving a proposal for an incorporation unless the commission finds, among other things, that the proposal is consistent with the intent of the act, the incorporation is consistent with the spheres of influence of affected local agencies, and the proposed city is expected to receive revenues sufficient to provide public services and facilities and a reasonable reserve during the ~~three~~ 3 fiscal years following incorporation.

This bill would additionally prohibit the commission from approving or conditionally approving a proposal that includes a disincorporation unless the commission finds, among other things, that the disincorporation is consistent with the intent of the act, the disincorporation will address necessary changes to spheres of influence of affected agencies, and the service responsibilities of the city proposed for disincorporation have been assigned, as specified.

(4) Existing law requires the executive officer of the commission to prepare a comprehensive fiscal analysis for any proposal that includes an incorporation, as specified.

This bill would additionally require the executive officer to prepare a comprehensive fiscal analysis for any proposal that includes a disincorporation, as specified.

(5) Existing law requires the commission to determine the amount of property tax revenue to be exchanged by the affected local agency for a proposal that includes the incorporation of a city, and sets forth the procedures to be followed in making that determination.

This bill would additionally require the commission to determine the amount of property tax revenue to be exchanged by the affected city and any successor agency or affected local agency for a proposal that includes a disincorporation of a city, and would set forth the procedures to be followed in making that determination.

The bill would additionally require the commission to determine, where the proposal includes the disincorporation of a city with the

assignment of property tax revenues to a successor agency, the increase of the appropriations limit for the successor agency or agencies, if the successor agency or agencies are existing entities, or the appropriations limit for a new special district, as specified.

The bill would state the intent of the Legislature that a proposal that includes a disincorporation of a city result in a determination that the debt or contractual obligations and responsibilities of the city being disincorporated be the responsibility of the same territory for repayment. The bill would ~~require~~, *require the city being disincorporated to provide a written statement*, prior to issuance of a certificate for filing for a proposal that includes a disincorporation, *that includes* specified information relating to ~~the its debts and contractual obligations of the city being disincorporated~~: *obligations*.

(6) Existing law authorizes the commission, in approving a disincorporation of a city, the dissolution of a district, or the reorganization or consolidation of agencies that result in the dissolution of one or more districts or disincorporation of one or more cities, to make the approval conditional upon the agency being dissolved not approving any increase in compensation or benefits for specified officers of the agency, or appropriating, encumbering, expending, or otherwise obligating any revenue of the agency beyond that provided in the current budget at the time the dissolution is approved by the commission, unless it first finds that an emergency exists.

This bill would modify this provision to authorize the commission to make the approval conditional upon a condition prohibiting the district that is being dissolved or the city that is being disincorporated from approving any increase in compensation or benefits for specified officers of the agency, or appropriating, encumbering, expending, or otherwise obligating any revenue of the agency beyond that provided in the current budget at the time the dissolution is approved by the commission, unless it first finds that an emergency exists.

The act also authorizes the commission to require a single question appearing on the ballot upon issues of annexation and reorganization in any election at which the questions of annexation and district reorganization or incorporation and district reorganization are to be considered at the same time.

This bill would additionally apply these provisions to a disincorporation and district reorganization.

(7) Existing law requires every public officer of a city being disincorporated, prior to the effective date of the disincorporation, to

turn the public property in his or her possession over to the board of supervisors.

This bill would repeal this provision.

(8) The act requires the commission, after ascertaining that the disincorporation has carried, to determine and certify in a written statement to the board of supervisors the indebtedness of the city, the amount of money in its treasury, and the amount of any tax levy or other obligation due the city that is unpaid or has not been collected.

This bill would repeal this provision.

(9) Existing law requires the board of supervisors to make specified determinations if the commission does not provide the board with a statement of those determinations.

This bill would repeal this provision.

(10) Existing law requires the tax collector to collect any tax that has been levied by a disincorporated city that remains uncollected when due and pay it into the county treasury.

This bill would provide that the tax collected and paid into the county treasury is on behalf of the designated successor agency or county to wind up affairs of the disincorporated city.

(11) Existing law requires the board of supervisors of a county to cause taxes to be levied and collected from within the territory formerly included within a disincorporated city, if there is not sufficient money in the treasury of a disincorporated city to the credit of the special fund to pay any city indebtedness as it becomes due. Existing law provides that any taxes levied pursuant to this provision are to be assessed, levied, and collected in the same manner and at the same time as other county taxes, and are additional taxes upon the property included within the territory of the disincorporated city.

This bill would repeal these provisions.

(12) Existing law requires the board of supervisors to levy a special tax upon all property within the disincorporated city if the revenues from specified public utilities are not sufficient for the administration, conduct, or improvement of the public utility. ~~Existing law requires all sums collected to be placed in a separate fund in the county treasury for the administration, conduct, and improvement of the public utility for which the tax is levied.~~

This bill would repeal ~~these provisions~~ *this provision*.

(13) Existing law requires the board of supervisors to annually, at the time other county taxes are levied and collected, to levy and collect a special tax on the remainder of the territory of a disincorporated city

sufficient to pay the balance of the debt, and pay that sum to the city treasurer. Existing law requires the city treasurer to pay the bonded indebtedness as it becomes due with the proceeds of those taxes.

This bill would repeal these provisions.

(14) Existing law provides that on and after the effective date of a disincorporation, the territory of the disincorporated city, all inhabitants within the territory, and all persons formerly entitled to vote by reason of residing within the territory cease to be subject to the jurisdiction of the disincorporated city and have none of the rights or duties of inhabitants or voters of a city.

This bill would additionally provide that as of the effective date of a disincorporation, the general plan of the general plan of the disincorporated city that was in effect immediately prior to the effective date of the disincorporation constitutes the community plan of the county for the territory of the disincorporated city, the zoning ordinances of the disincorporation that were in effect immediately prior to the effective date of the disincorporation constitute the zoning ordinances of the county for that territory, and any conditional use permit or legal nonconforming use that was in place immediately prior to the effective date of the disincorporation remains in force pursuant to the community plan and zoning ordinances. The bill would provide that any use of land that was authorized under the general plan and zoning ordinances immediately prior to the effective date of the disincorporation continues to be authorized, consistent with the requirements of that community plan and those zoning ordinances, for at least 10 years following the effective date of the disincorporation, as specified. The bill would additionally require the board of supervisors of the affected county to, within 90 days of the effective date of the disincorporation, adopt an expedited permit process relating to business, development, and health and safety permits for the territory of the disincorporated city, as specified: *authorized for as long a period as may be required by the California Constitution or the United States Constitution.*

(15) Existing law requires a county auditor to adjust the allocation of property tax revenues for local agencies whose service area or service responsibility may be altered by specified jurisdictional changes.

This bill would include a city disincorporation and dissolved district in those jurisdictional changes. By increasing the duties of the county auditor, this bill would impose a state-mandated local program.

(16) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 56653.1 is added to the Government
2 Code, to read:
3 56653.1. In the case of a disincorporation or reorganization
4 that includes a disincorporation, the plan for services required by
5 subdivision (a) of Section 56653 shall include the following:
6 (a) An enumeration and description of the services currently
7 provided by the city proposed for disincorporation and an
8 identification of the entity or entities proposed to assume
9 responsibility for the services following completion of
10 disincorporation.
11 (b) An enumeration and description of each service proposed
12 to be ~~discontinued~~, *discontinued or transferred*, the current
13 financing of the service or services, and any method of financing
14 proposed by the successor agency or agencies.
15 (c) A delineation of any existing financing of services currently
16 provided to include, but not be limited to, bonds, assessments,
17 community facility district governance, general taxes, special taxes,
18 other charges, and joint powers authorities or agreements.
19 (d) An indication of any current bankruptcy proceeding,
20 including, but not limited to, status and exit plan.
21 (e) An indication of any current order *relating to services*
22 *provided by the city proposed for disincorporation* by any agency,
23 department, office, or other division of the state, ~~including~~
24 *including*, but not limited to, a cease and desist order or water
25 prohibition order.
26 ~~(f) An outline of current retirement obligations, actuarially~~
27 ~~determined unfunded liability, and any documentation related to~~
28 ~~termination of public retirement contract provisions.~~

1 ~~(g)~~
2 ~~(f)~~ A written ~~acknowledgment statement~~ from each ~~affected~~
3 local agency ~~proposed to assume services from the city proposed~~
4 ~~for disincorporation~~; *entity identified pursuant to subdivision (a)*
5 *that it has received a copy of the plan for services submitted*
6 *pursuant to this section.*

7 ~~(h)~~
8 ~~(g)~~ Any other information that the executive officer may deem
9 necessary to ~~fully consider the disincorporation proposal~~; *evaluate*
10 *the plan for services submitted.*

11 SEC. 2. Section 56658 of the Government Code is amended
12 to read:

13 56658. (a) Any petitioner or legislative body desiring to initiate
14 proceedings shall submit an application to the executive officer of
15 the principal county.

16 (b) (1) Immediately after receiving an application and before
17 issuing a certificate of filing, the executive officer shall give mailed
18 notice that the application has been received to each affected
19 agency, the county committee on school district organization, and
20 each school superintendent whose school district overlies the
21 affected territory. The notice shall generally describe the proposal
22 and the affected territory. The executive officer shall not be
23 required to give notice pursuant to this subdivision if a local agency
24 has already given notice pursuant to subdivision (c) of Section
25 56654.

26 (2) It is the intent of the Legislature that a proposal for
27 incorporation or disincorporation shall be processed in a timely
28 manner. With regard to an application that includes an
29 incorporation or disincorporation, the executive officer shall
30 immediately notify all affected local agencies and any applicable
31 state agencies by mail and request the affected agencies to submit
32 the required data to the commission within a reasonable timeframe
33 established by the executive officer. Each affected agency shall
34 respond to the executive officer within 15 days acknowledging
35 receipt of the request. Each affected local agency and the officers
36 and departments thereof shall submit the required data to the
37 executive officer within the timelines established by the executive
38 officer. Each affected state agency and the officers and departments
39 thereof shall submit the required data to the executive officer within

1 the timelines agreed upon by the executive officer and the affected
2 state departments.

3 (3) If a special district is, or as a result of a proposal will be,
4 located in more than one county, the executive officer of the
5 principal county shall immediately give the executive officer of
6 each other affected county mailed notice that the application has
7 been received. The notice shall generally describe the proposal
8 and the affected territory.

9 (c) Except when a commission is the lead agency pursuant to
10 Section 21067 of the Public Resources Code, the executive officer
11 shall determine within 30 days of receiving an application whether
12 the application is complete and acceptable for filing or whether
13 the application is incomplete.

14 (d) The executive officer shall not accept an application for
15 filing and issue a certificate of filing for at least 20 days after giving
16 the mailed notice required by subdivision (b). The executive officer
17 shall not be required to comply with this subdivision in the case
18 of an application which meets the requirements of Section 56662
19 or in the case of an application for which a local agency has already
20 given notice pursuant to subdivision (c) of Section 56654.

21 (e) If the appropriate fees have been paid, an application shall
22 be deemed accepted for filing if no determination has been made
23 by the executive officer within the 30-day period. An executive
24 officer shall accept for filing, and file, any application submitted
25 in the form prescribed by the commission and containing all of
26 the information and data required pursuant to Section 56652.

27 (f) When an application is accepted for filing, the executive
28 officer shall immediately issue a certificate of filing to the
29 applicant. A certificate of filing shall be in the form prescribed by
30 the executive officer and shall specify the date upon which the
31 proposal shall be heard by the commission. From the date of
32 issuance of a certificate of filing, or the date upon which an
33 application is deemed to have been accepted, whichever is earlier,
34 an application shall be deemed filed pursuant to this division.

35 (g) If an application is determined not to be complete, the
36 executive officer shall immediately transmit that determination to
37 the applicant specifying those parts of the application which are
38 incomplete and the manner in which they can be made complete.

39 (h) Following the issuance of the certificate of filing, the
40 executive officer shall proceed to set the proposal for hearing and

1 give published notice thereof as provided in this part. The date of
2 the hearing shall be not more than 90 days after issuance of the
3 certificate of filing or after the application is deemed to have been
4 accepted, whichever is earlier. Notwithstanding Section 56106,
5 the date for conducting the hearing, as determined pursuant to this
6 subdivision, is mandatory.

7 SEC. 3. Section 56770 is added to the Government Code, to
8 read:

9 56770. The commission shall not approve or conditionally
10 approve any proposal that includes a disincorporation, unless,
11 based on the entire record, the commission makes all of the
12 following determinations:

13 (a) The proposed disincorporation is consistent with the intent
14 of ~~this division, including, but not limited to, the policies of~~
15 ~~Sections 56001, 56300, 56301, and 56377~~ *division* to provide for
16 a sustainable system for the delivery of services.

17 (b) ~~The proposal has reviewed the municipal~~ *commission has*
18 *considered the service reviews of municipal services* and spheres
19 of influence of the affected local agencies, and the disincorporation
20 will address the necessary changes to those spheres of ~~influence:~~
21 *influence, if any.*

22 (c) It has reviewed the comprehensive fiscal analysis prepared
23 pursuant to Section 56804.

24 (d) It has reviewed the executive officer's report and
25 recommendation prepared pursuant to Section 56665, and the oral
26 or written testimony presented at its public hearing.

27 (e) The service responsibilities of the city proposed for
28 disincorporation have been assigned through terms and conditions
29 authorized by Sections 56885.5, 56886, and ~~57300, 57302,~~ and
30 Chapter 5 (commencing with Section 57400) of Part ~~5.~~ *5 and the*
31 *commission has approved a transition plan to provide those*
32 *services, if one was requested by the executive officer.*

33 SEC. 4. Section 56804 is added to the Government Code, to
34 read:

35 56804. For any proposal that includes a disincorporation, the
36 executive officer shall prepare, or cause to be prepared by contract,
37 a comprehensive fiscal analysis. This analysis shall become part
38 of the report required pursuant to Section 56665. Data used for the
39 analysis shall be from the most recent fiscal year for which data
40 is available, preceding the issuances of the certificate of filing.

1 When data requested by the executive officer in the notice to
2 affected agencies, pursuant to paragraph (2) of subdivision (b) of
3 Section 56658, is unavailable, the analysis shall document the
4 source and methodology of the data used. The analysis shall review
5 and document each of the following:

6 (a) The direct and indirect costs incurred by the city proposed
7 for disincorporation for providing public services and facilities
8 during the three fiscal years immediately preceding the submittal
9 of the proposal for disincorporation.

10 (b) ~~The ability of~~ *sources of funding, if any, available to* the
11 entities proposed to assume the obligations of the city being
12 disincorporated and the related costs, including all actual direct
13 and indirect costs, in provision of existing services.

14 (c) When determining costs, the executive officer shall also
15 include all direct and indirect costs of any public services that are
16 proposed to be transferred to state agencies for delivery.

17 (d) The revenues of the city being disincorporated during the
18 three fiscal years immediately preceding the initiation of the
19 disincorporation proposal.

20 (e) Any other information and analysis needed to make the
21 findings required by Section 56770.

22 SEC. 5. Section 56813 is added to the Government Code, to
23 read:

24 56813. (a) If the proposal includes the disincorporation of a
25 city, as defined in Section 56034, the commission shall determine
26 the amount of property tax revenue to be exchanged by the affected
27 city and any successor agency or affected local agency pursuant
28 to this section.

29 (b) The commission shall notify the county auditor of the
30 proposal, the affected local agencies to be extinguished, and the
31 services proposed to be transferred to new jurisdictions, and
32 identify for the auditor the changes to occur.

33 (c) If the proposal would not transfer all of the service
34 responsibilities of the disincorporating city to the affected county
35 or to a single affected agency, the commission and the county
36 auditor shall do all of the following:

37 (1) The county auditor shall determine the proportion that the
38 amount of property tax revenue derived by the city being
39 disincorporated pursuant to subdivision (b) of Section 93 of the
40 Revenue and Taxation Code bears to the total amount of revenue

1 from all sources, available for general purposes, received by the
2 city being disincorporated in the prior fiscal year and provide their
3 response ~~in compliance with paragraph (2) of subdivision (b) of~~
4 ~~Section 56658. within 15 days of receiving notification from the~~
5 ~~commission pursuant to subdivision (b).~~ For purposes of making
6 this determination and the determination required by paragraph
7 (3), “total amount of revenue from all sources available for general
8 purposes” means the total amount of revenue which the city being
9 ~~disincorporating~~ *disincorporated* may use on a discretionary basis
10 for any purpose and does not include any of the following:

11 (A) Revenue that, ~~by statute;~~ *statute or ordinance*, is required
12 to be used for a specific purpose.

13 (B) Revenue from fees, charges, or assessments that are levied
14 to specifically offset the cost of particular services and that do not
15 exceed the cost reasonably borne in providing these services.

16 (C) Revenue received from the federal government that is
17 required to be used for a specific purpose.

18 (2) The commission shall determine, based on information
19 submitted by the city being disincorporated, an amount equal to
20 the total net cost to that city during the prior fiscal year of providing
21 those services that an affected agency will assume within the area
22 subject to the proposal. For purposes of this paragraph, “total net
23 cost” means the total direct and indirect costs that were funded by
24 general purpose revenues of the city being disincorporated and
25 excludes any portion of the total cost that was funded by any
26 revenues of that agency that are specified in subparagraphs (A),
27 (B), and (C) of paragraph (1).

28 (3) For the services to be transferred to each affected local
29 agency, the commission shall multiply the amount determined
30 pursuant to paragraph (2) by the proportion determined pursuant
31 to paragraph (1) to derive the amount of property tax revenue used
32 to provide services by the city being disincorporated during the
33 prior fiscal year within the area subject to the proposal. The county
34 auditor shall adjust the amount so determined by the annual tax
35 increment pursuant to the procedures set forth in Chapter 6
36 (commencing with Section 95) of Part 0.5 of Division 1 of the
37 Revenue and Taxation Code, to the fiscal year in which the affected
38 agency receives its next allocation of property taxes.

39 (d) If the proposal for disincorporation would transfer all of the
40 service responsibilities of the city proposed for disincorporation,

1 other than those that are proposed to be discontinued, to a single
2 successor agency, the commission shall request the auditor to
3 determine the property tax revenue allocated to the city being
4 disincorporated by tax rate area, or portion thereof, and transmit
5 that information to the commission.

6 (e) The executive officer shall notify the auditor of the amount
7 determined pursuant to subdivision (c) or (d), as the case may be,
8 and, where applicable, the period of time within which and the
9 procedure by which the transfer of property tax revenues will be
10 effected pursuant to this section, at the time the executive officer
11 records a certificate of completion pursuant to Section 57203 for
12 any proposal described in subdivision (a), and the auditor shall
13 transfer that amount to the affected agency or agencies that will
14 assume the services as determined by the commission. Any
15 property tax not transferred to an affected agency pursuant to
16 subdivision (c) shall be transferred to the affected county.

17 (f) For purposes of this section, "prior fiscal year" means the
18 most recent fiscal year preceding the issuance of the certificate of
19 filing for which data is available on actual direct and indirect costs
20 and revenues needed to perform the calculations required by this
21 section.

22 (g) Any action brought by a city or district to contest any of the
23 determinations of the county auditor or the commission with regard
24 to the amount of property tax revenue to be exchanged by the
25 affected local agencies pursuant to this section shall be commenced
26 within three years of the effective date of the disincorporation.

27 SEC. 6. Section 56814 is added to the Government Code, to
28 read:

29 56814. If the proposal includes the disincorporation of a city,
30 as defined in Section 56034, with the assignment of property tax
31 revenues to a successor agency the commission shall make the
32 following determinations, as appropriate:

33 (a) The increase of the appropriations limit for the successor
34 agency, or agencies, if the successor agency or agencies is an
35 existing entity.

36 (b) The appropriations limit for a new special district through
37 a formation process as defined by Section 56810.

38 SEC. 7. Section ~~56815~~ 56816 is added to the Government
39 Code, to read:

1 56815.

2 56816. (a) It is the intent of the Legislature that any proposal
3 that includes the disincorporation of a city result in a determination
4 that the debt or contractual obligations and responsibilities of the
5 city being disincorporated shall be the responsibility of that same
6 territory for repayment. To ascertain this information, *the city shall*
7 *provide a written statement that determines and certifies all of the*
8 *following shall be provided* to the commission prior to the issuance
9 of a certificate of filing for a disincorporation proposal, pursuant
10 to Sections 56651 and 56658:

11 ~~(1) The city shall provide a written statement that determines~~
12 ~~and certifies all of the following:~~

13 ~~(A)~~

14 ~~(1) The indebtedness of the city.~~

15 ~~(B)~~

16 ~~(2) The amount of money in the city's treasury.~~

17 ~~(C)~~

18 ~~(3) The amount of any tax levy or other obligation due the city~~
19 ~~that is unpaid or has not been collected.~~

20 ~~(D) The amount of unfunded pension liability of all classes in~~
21 ~~a public retirement system, and the liability for other~~
22 ~~postemployment benefits.~~

23 ~~(2) The county treasurer shall identify all taxes levied and~~
24 ~~uncollected.~~

25 ~~(3) A written statement of all redevelopment successor agency~~
26 ~~designations and current balances and obligations.~~

27 ~~(b) The commission shall not approve a proposal that includes~~
28 ~~a disincorporation unless it makes the determinations required by~~
29 ~~Section 56770.~~

30 *(4) The amount of current and future liabilities, both internal*
31 *debt owed to other special or restricted funds or enterprise funds*
32 *within the agency and external debt owed to other public agencies*
33 *or outside lenders or that results from contractual obligations,*
34 *which may include contracts for goods or services, retirement*
35 *obligations, actuarially determined unfunded pension liability of*
36 *all classes in a public retirement system, including any*
37 *documentation related to the termination of public retirement*
38 *contract provisions, and the liability for other postemployment*
39 *benefits. The information required by this paragraph shall include*

1 *any associated revenue stream for financing that may be or has*
2 *been committed to that liability, including employee contributions.*

3 *(b) The city shall provide a written statement identifying the*
4 *successor agency to the city's former redevelopment agency, if*
5 *any, pursuant to Section 34173 of the Health and Safety Code.*

6 SEC. 8. Section 56885.5 of the Government Code is amended
7 to read:

8 56885.5. (a) In any commission order giving approval to any
9 change of organization or reorganization, the commission may
10 make that approval conditional upon any of the following factors:

11 (1) Any of the conditions set forth in Section 56886.

12 (2) The initiation, conduct, or completion of proceedings for
13 another change of organization or a reorganization.

14 (3) The approval or disapproval, with or without election, as
15 may be provided by this division, of any resolution or ordinance
16 ordering that change of organization or reorganization.

17 (4) With respect to any commission determination to approve
18 the disincorporation of a city, the dissolution of a district, or the
19 reorganization or consolidation of agencies that results in the
20 dissolution of one or more districts or the disincorporation of one
21 or more cities, a condition that prohibits a district that is being
22 dissolved *or a city that is being disincorporated* from taking any
23 of the following actions, unless it first finds that *either* an
24 emergency situation exists as defined in Section 54956.5, ~~or if the~~
25 ~~governing the legislative~~ body of the successor agency or agencies,
26 as designated by the ~~commission, approves:~~ *commission has taken*
27 *action approving one or more of the following actions:*

28 (A) Approving any increase in compensation or benefits for
29 members of the governing board, its officers, or the executive
30 officer of the agency.

31 (B) Appropriating, encumbering, expending, or otherwise
32 obligating, any revenue of the agency beyond that provided in the
33 current budget at the time the commission approves the dissolution
34 or disincorporation.

35 (b) If the commission so conditions its approval, the commission
36 may order that any further action pursuant to this division be
37 continued and held in abeyance for the period of time designated
38 by the commission, not to exceed six months from the date of that
39 conditional approval.

1 (c) The commission order may also provide that any election
2 called upon any change of organization or reorganization shall be
3 called, held, and conducted before, upon the same date as, or after
4 the date of any election to be called, held, and conducted upon any
5 other change of organization or reorganization.

6 (d) The commission order may also provide that in any election
7 at which the questions of annexation and district reorganization
8 or, incorporation and district reorganization, or disincorporation
9 and district reorganization are to be considered at the same time,
10 there shall be a single question appearing on the ballot upon the
11 issues of annexation and district reorganization or incorporation
12 and district reorganization.

13 SEC. 9. Section 57401 of the Government Code is repealed.

14 SEC. 10. Section 57402 of the Government Code is repealed.

15 SEC. 11. Section 57404 of the Government Code is repealed.

16 SEC. 12. Section 57405 of the Government Code is amended
17 to read:

18 57405. If a tax has been levied by the disincorporated city and
19 remains uncollected, the county tax collector shall collect it when
20 due and pay it into the county treasury on behalf of the designated
21 successor agency or county to wind up the affairs of the
22 disincorporated city.

23 SEC. 13. Section 57409 of the Government Code is repealed.

24 SEC. 14. Section 57410 of the Government Code is repealed.

25 SEC. 15. Section 57416 of the Government Code is repealed.

26 ~~SEC. 16. Section 57417 of the Government Code is repealed.~~

27 ~~SEC. 17.~~

28 ~~SEC. 16.~~ Section 57423 of the Government Code is repealed.

29 ~~SEC. 18.~~

30 ~~SEC. 17.~~ Section 57424 of the Government Code is repealed.

31 ~~SEC. 19.~~

32 ~~SEC. 18.~~ Section 57426 is added to the Government Code, to
33 read:

34 57426. (a) As of the effective date of the disincorporation, all
35 of the following apply:

36 (†)

37 (a) The general plan of the disincorporated city that was in effect
38 immediately prior to the effective date of the disincorporation shall
39 constitute the community plan of the county for the territory of

1 the disincorporated—~~city.~~ *city until the county updates the*
 2 *community plan.*

3 ~~(2)~~

4 (b) The zoning ordinances of the disincorporated city that were
 5 in effect immediately prior to the effective date of the
 6 disincorporation shall constitute the zoning ordinances of the
 7 county for that—~~territory.~~ *territory until the county updates the*
 8 *zoning ordinances applicable to that territory.*

9 ~~(3)~~

10 (c) Any conditional use permit or legal nonconforming use that
 11 was in place immediately prior to the effective date of the
 12 disincorporation shall remain in force pursuant to the community
 13 plan and zoning ordinances.

14 ~~(4) Any~~

15 (d) *Notwithstanding subdivisions (a), (b), or (c), any use of land*
 16 *that was authorized under the general plan and zoning ordinances*
 17 *immediately prior to the effective date of the disincorporation shall*
 18 *continue to be authorized, consistent with the requirements of that*
 19 *community plan and those zoning ordinances, for at least 10 years*
 20 *following the effective date of the disincorporation, any longer*
 21 *period for as long a period as may be required by the California*
 22 *Constitution or United States Constitution, or any longer period*
 23 *to the extent permitted by the general plan and zoning ordinances*
 24 *of the county applicable to that territory following that 10-year*
 25 *period. Constitution.*

26 ~~(b) The board of supervisors of the affected county shall, within~~
 27 ~~90 days of the effective date of disincorporation, adopt an expedited~~
 28 ~~permit process relating to business, development, and health and~~
 29 ~~safety permits for the territory of the disincorporated city that is~~
 30 ~~comparable to the permit process that existing in that city~~
 31 ~~immediately preceding disincorporation.~~

32 ~~SEC. 20.~~

33 *SEC. 19.* Section 99 of the Revenue and Taxation Code is
 34 amended to read:

35 99. (a) For the purposes of the computations required by this
 36 chapter:

37 (1) In the case of a jurisdictional change, other than a city
 38 incorporation, city disincorporation, or a formation of a district as
 39 defined in Section 2215, the auditor shall adjust the allocation of
 40 property tax revenue determined pursuant to Section 96 or 96.1,

1 or the annual tax increment determined pursuant to Section 96.5,
2 for local agencies whose service area or service responsibility
3 would be altered by the jurisdictional change, as determined
4 pursuant to subdivision (b) or (c).

5 (2) In the case of a city incorporation or disincorporation, the
6 auditor shall assign the allocation of property tax revenues
7 determined pursuant to Section 56810 of the Government Code
8 and the adjustments in tax revenues that may occur pursuant to
9 Section 56815 of the Government Code to the newly formed city
10 or district and shall make the adjustment as determined by Section
11 56810 *or* 56813 in the allocation of property tax revenue
12 determined pursuant to Section 96 or 96.1 for each local agency
13 whose service area or service responsibilities would be altered by
14 the incorporation.

15 (3) In the case of a formation of a district as defined in Section
16 2215, the auditor shall assign the allocation of property tax
17 revenues determined pursuant to Section 56810 of the Government
18 Code to the district and shall make the adjustment as determined
19 by Section 56810, or for the disincorporated city or dissolved
20 district as determined by Section 56813, in the allocation of
21 property tax revenue determined pursuant to Section 96 or 96.1
22 for each local agency whose service area or service responsibilities
23 would be altered by the change of organization.

24 (b) Upon the filing of an application or a resolution pursuant to
25 the Cortese-Knox-Hertzberg Local Government Reorganization
26 Act of 2000 (Division 3 (commencing with Section 56000) of Title
27 5 of the Government Code), but prior to the issuance of a certificate
28 of filing, the executive officer shall give notice of the filing to the
29 assessor and auditor of each county within which the territory
30 subject to the jurisdictional change is located. This notice shall
31 specify each local agency whose service area or responsibility will
32 be altered by the jurisdictional change.

33 (1) (A) The county assessor shall provide to the county auditor,
34 within 30 days of the notice of filing, a report which identifies the
35 assessed valuations for the territory subject to the jurisdictional
36 change and the tax rate area or areas in which the territory exists.

37 (B) The auditor shall estimate the amount of property tax
38 revenue generated within the territory that is the subject of the
39 jurisdictional change during the current fiscal year.

1 (2) The auditor shall estimate what proportion of the property
2 tax revenue determined pursuant to paragraph (1) is attributable
3 to each local agency pursuant to Sections 96.1 and 96.5.

4 (3) Within 45 days of notice of the filing of an application or
5 resolution, the auditor shall notify the governing body of each local
6 agency whose service area or service responsibility will be altered
7 by the jurisdictional change of the amount of, and allocation factors
8 with respect to, property tax revenue estimated pursuant to
9 paragraph (2) that is subject to a negotiated exchange.

10 (4) Upon receipt of the estimates pursuant to paragraph (3), the
11 local agencies shall commence negotiations to determine the
12 amount of property tax revenues to be exchanged between and
13 among the local agencies. Except as otherwise provided, this
14 negotiation period shall not exceed 60 days. If a local agency
15 involved in these negotiations notifies the other local agencies, the
16 county auditor, and the local agency formation commission in
17 writing of its desire to extend the negotiating period, the negotiating
18 period shall be 90 days.

19 The exchange may be limited to an exchange of property tax
20 revenues from the annual tax increment generated in the area
21 subject to the jurisdictional change and attributable to the local
22 agencies whose service area or service responsibilities will be
23 altered by the proposed jurisdictional change. The final exchange
24 resolution shall specify how the annual tax increment shall be
25 allocated in future years.

26 (5) In the event that a jurisdictional change would affect the
27 service area or service responsibility of one or more special
28 districts, the board of supervisors of the county or counties in which
29 the districts are located shall, on behalf of the district or districts,
30 negotiate any exchange of property tax revenues. Prior to entering
31 into negotiation on behalf of a district for the exchange of property
32 tax revenue, the board shall consult with the affected district. The
33 consultation shall include, at a minimum, notification to each
34 member and executive officer of the district board of the pending
35 consultation and provision of adequate opportunity to comment
36 on the negotiation.

37 (6) Notwithstanding any other provision of law, the executive
38 officer shall not issue a certificate of filing pursuant to Section
39 56658 of the Government Code until the local agencies included
40 in the property tax revenue exchange negotiation, within the

1 negotiation period, present resolutions adopted by each such county
2 and city whereby each county and city agrees to accept the
3 exchange of property tax revenues.

4 (7) In the event that the commission modifies the proposal or
5 its resolution of determination, any local agency whose service
6 area or service responsibility would be altered by the proposed
7 jurisdictional change may request, and the executive officer shall
8 grant, 30 days for the affected agencies, pursuant to paragraph (4),
9 to renegotiate an exchange of property tax revenues.
10 Notwithstanding the time period specified in paragraph (4), if the
11 resolutions required pursuant to paragraph (6) are not presented
12 to the executive officer within the 30-day period, all proceedings
13 of the jurisdictional change shall automatically be terminated.

14 (8) In the case of a jurisdictional change that consists of a city's
15 qualified annexation of unincorporated territory, an exchange of
16 property tax revenues between the city and the county shall be
17 determined in accordance with subdivision (e) if that exchange of
18 revenues is not otherwise determined pursuant to either of the
19 following:

20 (A) Negotiations completed within the applicable period or
21 periods as prescribed by this subdivision.

22 (B) A master property tax exchange agreement among those
23 local agencies, as described in subdivision (d).

24 For purposes of this paragraph, a qualified annexation of
25 unincorporated territory means an annexation, as so described, for
26 which an application or a resolution was filed on or after January
27 1, 1998, and on or before January 1, 2015.

28 (9) No later than the date on which the certificate of completion
29 of the jurisdictional change is recorded with the county recorder,
30 the executive officer shall notify the auditor or auditors of the
31 exchange of property tax revenues and the auditor or auditors shall
32 make the appropriate adjustments as provided in subdivision (a).

33 (c) Whenever a jurisdictional change is not required to be
34 reviewed and approved by a local agency formation commission,
35 the local agencies whose service area or service responsibilities
36 would be altered by the proposed change, shall give notice to the
37 State Board of Equalization and the assessor and auditor of each
38 county within which the territory subject to the jurisdictional
39 change is located. This notice shall specify each local agency
40 whose service area or responsibility will be altered by the

1 jurisdictional change and request the auditor and assessor to make
2 the determinations required pursuant to paragraphs (1) and (2) of
3 subdivision (b). Upon notification by the auditor of the amount
4 of, and allocation factors with respect to, property tax subject to
5 exchange, the local agencies, pursuant to the provisions of
6 paragraphs (4) and (6) of subdivision (b), shall determine the
7 amount of property tax revenues to be exchanged between and
8 among the local agencies. Notwithstanding any other provision of
9 law, no such jurisdictional change shall become effective until
10 each county and city included in these negotiations agrees, by
11 resolution, to accept the negotiated exchange of property tax
12 revenues. The exchange may be limited to an exchange of property
13 tax revenue from the annual tax increment generated in the area
14 subject to the jurisdictional change and attributable to the local
15 agencies whose service area or service responsibilities will be
16 altered by the proposed jurisdictional change. The final exchange
17 resolution shall specify how the annual tax increment shall be
18 allocated in future years. Upon the adoption of the resolutions
19 required pursuant to this section, the adopting agencies shall notify
20 the auditor who shall make the appropriate adjustments as provided
21 in subdivision (a). Adjustments in property tax allocations made
22 as the result of a city or library district withdrawing from a county
23 free library system pursuant to Section 19116 of the Education
24 Code shall be made pursuant to Section 19116 of the Education
25 Code, and this subdivision shall not apply.

26 (d) With respect to adjustments in the allocation of property
27 taxes pursuant to this section, a county and any local agency or
28 agencies within the county may develop and adopt a master
29 property tax transfer agreement. The agreement may be revised
30 from time to time by the parties subject to the agreement.

31 (e) (1) An exchange of property tax revenues that is required
32 by paragraph (8) of subdivision (b) to be determined pursuant to
33 this subdivision shall be determined in accordance with all of the
34 following:

35 (A) The city and the county shall mutually select a third-party
36 consultant to perform a comprehensive, independent fiscal analysis,
37 funded in equal portions by the city and the county, that specifies
38 estimates of all tax revenues that will be derived from the annexed
39 territory and the costs of city and county services with respect to
40 the annexed territory. The analysis shall be completed within a

1 period not to exceed 30 days, and shall be based upon the general
2 plan or adopted plans and policies of the annexing city and the
3 intended uses for the annexed territory. If, upon the completion of
4 the analysis period, no exchange of property tax revenues is agreed
5 upon by the city and the county, subparagraph (B) shall apply.

6 (B) The city and the county shall mutually select a mediator,
7 funded in equal portions by those agencies, to perform mediation
8 for a period not to exceed 30 days. If, upon the completion of the
9 mediation period, no exchange of property tax revenues is agreed
10 upon by the city and the county, subparagraph (C) shall apply.

11 (C) The city and the county shall mutually select an arbitrator,
12 funded in equal portions by those agencies, to conduct an advisory
13 arbitration with the city and the county for a period not to exceed
14 30 days. At the conclusion of this arbitration period, the city and
15 the county shall each present to the arbitrator its last and best offer
16 with respect to the exchange of property tax revenues. The
17 arbitrator shall select one of the offers and recommend that offer
18 to the governing bodies of the city and the county. If the governing
19 body of the city or the county rejects the recommended offer, it
20 shall do so during a public hearing, and shall, at the conclusion of
21 that hearing, make written findings of fact as to why the
22 recommended offer was not accepted.

23 (2) Proceedings under this subdivision shall be concluded no
24 more than 150 days after the auditor provides the notification
25 pursuant to paragraph (3) of subdivision (b), unless one of the
26 periods specified in this subdivision is extended by the mutual
27 agreement of the city and the county. Notwithstanding any other
28 provision of law, except for those conditions that are necessary to
29 implement an exchange of property tax revenues determined
30 pursuant to this subdivision, the local agency formation
31 commission shall not impose any fiscal conditions upon a city's
32 qualified annexation of unincorporated territory that is subject to
33 this subdivision.

34 (f) Except as otherwise provided in subdivision (g), for the
35 purpose of determining the amount of property tax to be allocated
36 in the 1979-80 fiscal year and each fiscal year thereafter for those
37 local agencies that were affected by a jurisdictional change which
38 was filed with the State Board of Equalization after January 1,
39 1978, but on or before January 1, 1979. The local agencies shall
40 determine by resolution the amount of property tax revenues to be

1 exchanged between and among the affected agencies and notify
2 the auditor of the determination.

3 (g) For the purpose of determining the amount of property tax
4 to be allocated in the 1979–80 fiscal year and each fiscal year
5 thereafter, for a city incorporation that was filed pursuant to
6 Sections 54900 to 54904 after January 1, 1978, but on or before
7 January 1, 1979, the amount of property tax revenue considered
8 to have been received by the jurisdiction for the 1978–79 fiscal
9 year shall be equal to two-thirds of the amount of property tax
10 revenue projected in the final local agency formation commission
11 staff report pertaining to the incorporation multiplied by the
12 proportion that the total amount of property tax revenue received
13 by all jurisdictions within the county for the 1978–79 fiscal year
14 bears to the total amount of property tax revenue received by all
15 jurisdictions within the county for the 1977–78 fiscal year. Except,
16 however, in the event that the final commission report did not
17 specify the amount of property tax revenue projected for that
18 incorporation, the commission shall by October 10 determine
19 pursuant to Section 54790.3 of the Government Code the amount
20 of property tax to be transferred to the city.

21 The provisions of this subdivision shall also apply to the
22 allocation of property taxes for the 1980–81 fiscal year and each
23 fiscal year thereafter for incorporations approved by the voters in
24 June 1979.

25 (h) For the purpose of the computations made pursuant to this
26 section, in the case of a district formation that was filed pursuant
27 to Sections 54900 to 54904, inclusive, of the Government Code
28 after January 1, 1978, but before January 1, 1979, the amount of
29 property tax to be allocated to the district for the 1979–80 fiscal
30 year and each fiscal year thereafter shall be determined pursuant
31 to Section 54790.3 of the Government Code.

32 (i) For the purposes of the computations required by this chapter,
33 in the case of a jurisdictional change, other than a change requiring
34 an adjustment by the auditor pursuant to subdivision (a), the auditor
35 shall adjust the allocation of property tax revenue determined
36 pursuant to Section 96 or 96.1 or its predecessor section, or the
37 annual tax increment determined pursuant to Section 96.5 or its
38 predecessor section, for each local school district, community
39 college district, or county superintendent of schools whose service

1 area or service responsibility would be altered by the jurisdictional
2 change, as determined as follows:

3 (1) The governing body of each district, county superintendent
4 of schools, or county whose service areas or service responsibilities
5 would be altered by the change shall determine the amount of
6 property tax revenues to be exchanged between and among the
7 affected jurisdictions. This determination shall be adopted by each
8 affected jurisdiction by resolution. For the purpose of negotiation,
9 the county auditor shall furnish the parties and the county board
10 of education with an estimate of the property tax revenue subject
11 to negotiation.

12 (2) In the event that the affected jurisdictions are unable to agree,
13 within 60 days after the effective date of the jurisdictional change,
14 and if all the jurisdictions are wholly within one county, the county
15 board of education shall, by resolution, determine the amount of
16 property tax revenue to be exchanged. If the jurisdictions are in
17 more than one county, the State Board of Education shall, by
18 resolution, within 60 days after the effective date of the
19 jurisdictional change, determine the amount of property tax to be
20 exchanged.

21 (3) Upon adoption of any resolution pursuant to this subdivision,
22 the adopting jurisdictions or State Board of Education shall notify
23 the county auditor who shall make the appropriate adjustments as
24 provided in subdivision (a).

25 (j) For purposes of subdivision (i), the annexation by a
26 community college district of territory within a county not
27 previously served by a community college district is an alteration
28 of service area. The community college district and the county
29 shall negotiate the amount, if any, of property tax revenues to be
30 exchanged. In these negotiations, there shall be taken into
31 consideration the amount of revenue received from the timber
32 yield tax and forest reserve receipts by the community college
33 district in the area not previously served. In no event shall the
34 property tax revenue to be exchanged exceed the amount of
35 property tax revenue collected prior to the annexation for the
36 purposes of paying tuition expenses of residents enrolled in the
37 community college district, adjusted each year by the percentage
38 change in population and the percentage change in the cost of
39 living, or per capita personal income, whichever is lower, less the
40 amount of revenue received by the community college district in

1 the annexed area from the timber yield tax and forest reserve
2 receipts.

3 (k) At any time after a jurisdictional change is effective, any of
4 the local agencies party to the agreement to exchange property tax
5 revenue may renegotiate the agreement with respect to the current
6 fiscal year or subsequent fiscal years, subject to approval by all
7 local agencies affected by the renegotiation.

8 ~~SEC. 21.~~

9 *SEC. 20.* If the Commission on State Mandates determines that
10 this act contains costs mandated by the state, reimbursement to
11 local agencies and school districts for those costs shall be made
12 pursuant to Part 7 (commencing with Section 17500) of Division
13 4 of Title 2 of the Government Code.